

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

04 APR -2 AM 8:53

U.S. DISTRICT COURT
N.D. OF ALABAMA

JAMES IRVIN TYREE,

Petitioner,

v.

WARDEN JIMMY PATRICK and
THE ATTORNEY GENERAL OF
THE STATE OF ALABAMA,

Respondents.

CIVIL ACTION NO. 03-B-3102-W

ENTERED
APR - 2 2004

MEMORANDUM OF OPINION

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. In accord with the recommendation, this petition for writ of habeas corpus is due to be dismissed without prejudice to allow the petitioner to seek approval of the Eleventh Circuit Court of Appeals to file a successive petition. An appropriate order will be entered.

DONE, this 31st day of March, 2004.

Sharon Louise Blackburn
SHARON L. BLACKBURN
UNITED STATES DISTRICT JUDGE

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